

**STATE OF CONNECTICUT**  
**BOARD OF EXAMINERS FOR NURSING**

Department of Public Health

Petition No. 2000-0630-011-025

vs.

Kimberly Miller, LPN, Lic. No. 023571  
Respondent

**MEMORANDUM OF DECISION**

***Procedural Background***

The Board of Examiners for Nursing (hereinafter "the Board") was presented by the Department of Public Health (hereinafter "the Department") with a Statement of Charges and Motion for Summary Suspension dated July 31, 2000. Dept. Exh. 2. The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Kimberly Miller (hereinafter "respondent") which would subject respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

The Board issued a Notice of Hearing dated August 16, 2000, scheduling a hearing for September 6, 2000. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Notice of Hearing and Statement of Charges were sent by certified mail to respondent. The respondent indicated receipt of the Notice of Hearing and Statement of Charges by surrendering all three copies of her license and in a response letter. Board Exh. 1; Transcript, September 6, 2000, p. 4.

The hearing took place on September 6, 2000, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

Respondent was not present during the hearing and was not represented by counsel. Transcript, September 6, 2000, p. 2.

Respondent failed to submit a written Answer to the Statement of Charges. At the hearing on September 6, 2000, the Department moved to have the allegations in the Charges deemed admitted. The Board granted the Department's motion. Transcript, September 6, 2000, pp. 6-7.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

### ***Findings of Fact***

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued Licensed Practical Nurse license number 023571 on June 1, 1990. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 2-B.
2. At all relevant times, respondent was employed as a licensed practical nurse at Glendale Center, Naugatuck, Connecticut. Dept. Exh. 1.
3. On or about June 22, 2000, and/or about July 14, 2000, respondent abused or utilized to excess cocaine. Dept. Exh. 2, p. A1.
4. Respondent's abuse of cocaine does and/or may affect her practice as a licensed practical nurse. Dept. Exh. 1.
5. On January 5, 2000, the Board ordered a Consent Order in Petition number 991103-011-032 (hereinafter "the Order") that placed respondent's Licensed Practical Nurse license on probation for a period of four years. Such disciplinary action was based on respondent's admitted diversion of Vicodin ES. Dept. Exh. 2, pp. A4-A12.
6. The Order specifically provided that respondent submit to weekly random urine screens for the first eighteen months of probation and that all screen results be negative for the presence of drugs and alcohol. Dept. Exh. 2, pp. A6-A7.
7. On June 22, 2000 and July 14, 2000, respondent tested positive for cocaine. Respondent failed to submit to a urine screen when called on July 19, 2000. Dept. Exh. 2, pp. A1, A13-A14, A25-A26.

### ***Conclusions of Law and Discussion***

In consideration of the above Findings of Fact, the following conclusions are rendered:

Kimberly Miller held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

Respondent did not submit an Answer to the Statement of Charges. Pursuant to §19-9-20 of the Regulations of Connecticut State Agencies, the Board deems the allegations in the First and Second Counts of the Statement of Charges to be admitted.

The General Statutes of Connecticut §20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17 . . . (b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following . . . (2) illegal conduct, incompetence or negligence in performing usual nursing functions . . . (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . . (6) fraud or material deception in the course of professional services or activities . . . .

Based on its findings, the Board concludes that respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented. The Board further concludes that said conduct constitutes violations of the General Statutes of Connecticut §20-99(b) (2), (5), and (6). Therefore, respondent's Licensed Practical Nurse license is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

#### *Order*

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

Respondent's Licensed Practical Nurse license, number 023571, is revoked effective the date this Memorandum of Decision is signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Kimberly Miller, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Wethersfield, Connecticut this 3<sup>rd</sup> day of January, 2001.

BOARD OF EXAMINERS FOR NURSING

By 